

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1)	DIPTIBEN MISTRY,	)	
		)	
	Plaintiff,	)	
		)	Case No. CIV-12-34-F
vs.		)	
		)	
(1)	CHANDRAKANT UDWADIA and,	)	
		)	
(2)	NILAM UDWADIA,	)	
		)	
	Defendants.	)	

JOINT MOTION FOR MUTUAL DISMISSAL WITHOUT PREJUDICE

COMES NOW, the Plaintiff Diptiben Mistry (“Plaintiff”) and Defendant Chandrakant and Nilam Udwadia (“Defendants”) (collectively referred to as “Parties”), by and through their counsel of record, pursuant to Fed.R.Civ.P. 41 (a) (2) and move the Court to dismiss without prejudice Plaintiff’s claims against Defendants, and the Parties further request that the Court dismiss without prejudice Defendants’ Counterclaim against the Plaintiff, pursuant to Fed.R. Civ. P.. 41 (c). In support of this Motion, the Parties allege and state as follows:

1. On or about January 10, 2012, Plaintiff filed a Complaint in the United States District Court for the Western District of Oklahoma, alleging five claims for relief under the Trafficking Victims Protection Act of 2003, 18 U.S.C. § 1589 (forced labor) and §1590 (human trafficking); the Alien Tort Statute, 28 U.S.C. § 1350; and the Oklahoma Human Trafficking Act, 21 Okla. Stat. § 748.2, all derived from Plaintiff’s courtship and marriage to Defendants’ son.

2. On or about March 5, 2012, Defendants filed an Answer and Counterclaim to Plaintiff’s Complaint alleging Plaintiff’s claims for relief were an abuse of process under Oklahoma state law.

3. Two events have caused further prosecution of Plaintiff's Complaint and Defendants' Counterclaim impossible. First, Plaintiff has temporarily left the United States and returned to her home country of India to await processing of a new U.S. visa. Plaintiff's return date is uncertain. Second, lead counsel Allison Lefrak and Lynsay Gott's employer, Human Rights USA, a non-profit organization founded in 1996, has closed for business due to funding difficulties. Ms. Lefrak and Ms. Gott are no longer able to prosecute Plaintiff's claims.

WHEREFORE, premises considered, the Plaintiff Diptiben Mistry and Defendants Chandrakant and Nilam Udwardia request the Court dismiss without prejudice Plaintiff's five claims for relief against Defendants as alleged in her Complaint and further request the Court order Defendants' Counterclaim for abuse of process against Plaintiff dismissed without prejudice.

Respectfully submitted,

/s/ Peter L. Scimeca

W. David Pardue, OBA No. 6886

Peter L. Scimeca, OBA No. 21805

**ANDREWS DAVIS**

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELLORS AT LAW

100 North Broadway, Suite 3300

Oklahoma City, Oklahoma 73102

Telephone: 405/272-9241

Facsimile: 405/235-8786

Email: [dpardue@andrewsdavis.com](mailto:dpardue@andrewsdavis.com)

Email: [plscimeca@andrewsdavis.com](mailto:plscimeca@andrewsdavis.com)

ATTORNEYS FOR DEFENDANTS

/s/ Amy Sherry Fischer

Amy Sherry Fischer, OBA No. 16651

Larry D. Ottaway, OBA No. 6816

Foliart, Huff, Ottaway & Bottom

201 Robert S. Kerr Ave., 12<sup>th</sup> Floor

Oklahoma City, OK 73102

Telephone: (405)232-5633

Facsimile: 405/232-3462

Email: [amyfischer@oklahomacounsel.com](mailto:amyfischer@oklahomacounsel.com)

Email: [larryottaway@oklahomacounsel.com](mailto:larryottaway@oklahomacounsel.com)  
ATTORNEYS FOR PLAINTIFF

-and-

/s/ Lynsay Gott  
Lynsay Gott, DC Bar No. 979243  
Allison Lefrak, DC Bar No. 208955  
Human Rights USA  
2029 P Street NW, Suite 202  
Washington, DC 20036  
Telephone: (202) 296-5702  
Facsimile: (202) 296-5704  
Email: [alefrak@humanrightsusa.org](mailto:alefrak@humanrightsusa.org)  
Email: [Lgott@humanrightsusa.org](mailto:Lgott@humanrightsusa.org)  
ATTORNEYS FOR PLAINTIFF